

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

AMGLO KEMLITE LABORATORIES, INC.

Employer

and

**HEALTH CARE, PROFESSIONAL, TECHNICAL,
OFFICE, WAREHOUSE AND MAIL ORDER
EMPLOYEES UNION LOCAL 743 affiliated with the
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

Case 13-RC-069379

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition¹ duly filed under Section 9(c) of the National Labor Relations Act (Act), a hearing on this petition was conducted before a hearing officer of the National Labor Relations Board (Board). Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated to the undersigned its authority in this proceeding.²

¹ The parties have stipulated that, to the extent that the formal documents in this proceeding do not correctly reflect the names of the parties, all said documents may be considered as amended to correctly reflect the names as set forth above. This petition is being processed under the Board's Rules & Regulations which were in effect at the time of the filing of the petition (November 22, 2011).

² Upon the entire record in this proceeding, the undersigned finds:

- 1) The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
- 2) The Employer, Anglo Kemlite Laboratories, Inc., an Illinois corporation with a place of business located at 215 Gateway Drive, Bensenville, Illinois 60106, is engaged in the business of specialty light and lamp manufacturing. During the past calendar year, a representative period, the Employer has purchased and received at its Bensenville, Illinois facility goods valued in excess of \$50,000 from points directly outside the State of Illinois. Therefore, the Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
- 3) The Petitioner is a labor organization within the meaning of Section 2(5) the Act.
- 4) The Petitioner claims to represent certain employees of the Employer in the voting group described in the petition it filed herein, but the Employer declines to recognize the Petitioner as the collective-bargaining representative of those employees.
- 5) There is no collective-bargaining agreement covering any of the employees in the voting group sought in this petition and the parties do not contend that there is any contract bar to this proceeding.
- 6) A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

I. DECISION

No issues were raised about a question concerning representation.³

IT IS HEREBY ORDERED that an election be conducted under the direction of the Regional Director for Region 13 in the following appropriate voting group:

Included: All full-time and regular part-time production employees working in glass pyrex, glass quartz, electrode, manual pumping, assembly, solder, AMG/Bravo assembly, shipping and quality control departments employed by the Employer at its facility currently located at 215 Gateway Drive, Bensenville, IL 60106.

Excluded: All office clerical employees, confidential employees, and professional employees, guards and supervisors as defined in the Act.

There are approximately 44 eligible voters in the stipulated unit.

II. CONCLUSION

Based on the foregoing and the entire record herein, I find that it is appropriate to conduct an election in the unit set forth above.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Health Care, Professional, Technical,

³ The Employer challenges the authority of the Regional Director to order an election in this case on the basis of the assertedly “improper” appointment of the current Acting General Counsel. As the Acting General Counsel has no role in this proceeding or in any review of this proceeding, the Employer’s objection is not relevant here. *Panera Bread*, 362 NLRB 946, 947 (2015) (“the authority of a Regional Director to act in representation case proceedings is derived a 1961 delegation from the Board, not the General Counsel, and that delegation has never been revoked”) (citing *Durham School Services, LP*, 361 NLRB 702 (2014)); see *Oberthur Technologies of America*, 364 NLRB No. 59, slip op. at 1 n.4 (2016) (employer’s challenge to designation of Acting General Counsel had “no bearing on the underlying representation proceeding, in which the Regional Director was acting pursuant to a 1961 delegation of authority from the Board”).

The Employer also argues that the petition in this case should be dismissed because it is, in essence, based on a stale showing of interest. Yet, the petition was held in abeyance in excess of nine years pending the resolution of Case 13-CA-065271. Therefore, the delay in proceeding to an election in this case is attributable to the litigation of the Employer’s unfair labor practices before the Board, as reflected in *Amglo Kemlite Laboratories, Inc.*, 360 NLRB 319, 326-27 (2014), enfd. and pet. for review denied, 833 F.3d 824 (7th Cir. 2016), and the Employer’s subsequent petition for review. See *Big Y Foods, Inc.*, 238 NLRB 855, 855 n. 4 (1978) (the Board rejects an employer’s contention that the showing of interest is stale when the delay in processing the petition to an election was attributable to the employer’s unfair labor practices).

Office, Warehouse and Mail Order Employees Union Local 743 affiliated with the International Brotherhood of Teamsters.

1. Election Details

I direct the election be conducted by mail ballot. The type of election is not a litigable issue, therefore, my rationale for directing a mail ballot election is set forth in a separate letter.

The ballots will be mailed to employees employed in the appropriate collective-bargaining unit at 5:00 p.m. CT on **Tuesday, April 27, 2021**, from the National Labor Relations Board, Region 13, 219 South Dearborn Street, Suite 808, Chicago, Illinois. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote by mail and do not receive a ballot in the mail by **Tuesday, May 5, 2021**, should communicate immediately with the National Labor Relations Board by either calling the Region 13 Office at (312) 353-7570 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

Ballots will be due on **Friday, May 21, 2021**. All ballots will be commingled and counted on **Tuesday, May 25, 2021** at 2:00 p.m. CT. In order to be valid and counted, the returned ballots must be received in the Regional Office prior to the counting of the ballots.

2. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

3. Voter List

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior*

Underwear, Inc., 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before **Friday, April 9, 2021**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, www.nlr.gov, by mail, or by facsimile transmission at 312-886-1341. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of two copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

4. Posting of Notices of Election

Pursuant to Section 103.20 of the Board's Rules and Regulations⁴, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 am of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 am of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

III. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the

⁴ As noted above, this petition is being processed under the Board's Rules & Regulations which were in effect at the time of the filing of the petition (November 22, 2011). Please note that Section 103.20 no longer contains any reference to the Notice of Election posting. Section 102.67(k) of the Board's Rules & Regulations replaced it.

Amglo Kemlite Laboratories, Inc.
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Executive Secretary, 1015 Half Street SE, Washington, DC 20570. This request must be received by the Board in Washington by **Friday, April 16, 2021**.

Dated: April 2, 2021

/s/ Daniel N. Nelson

Daniel N. Nelson, Acting Regional Director
National Labor Relations Board, Region 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, Illinois 60604-2027